the remainder of the spigot (the portion spanning between the inlet and sloping shoulder 42) does not have the geometry of a truncated cone. Although the geometry of Floh et al's shoulder portion (42) of the spigot has the geometry of a truncated cone, Floh et al. does not disclose other material limitations of Claim 1 and does not realize the advantages of Applicant's truncated cone geometry.

First, claim 1 recites the limitation of a truncated cone having a first end and a second end ***wherein said first end is larger than said second end***. The "first end" is more particularly defined in the claim as the end ***proximate the retaining groove*** (see Claim 1, element b). The Examiner cites ridge (40) for teaching Applicant's "retaining groove." The "first end" of Floh et al.'s truncated cone (i.e. the end that is closer to the retaining groove) is smaller than the "second end" of the truncated cone. Accordingly, Floh et al. does not teach the limitation "wherein said first end is larger than said second end."

Also, Floh et al. does not disclose "a fluid manifold inside said truncated cone." As referenced above, it is not proper to classify the entirety of Floh et al.'s spigot (24) as a truncated cone – only sloping shoulder 42 has this geometry. As illustrated in FIG. 2 and FIG. 3 of the Floh et al. patent, the fluid manifold (bore inside spigot 24) does not extend into the sloping shoulder. Accordingly, the fluid manifold is not ***inside the truncated cone***.

The aforementioned limitations which are not disclosed by the Floh et al. patent are material to the advantages realized by Applicant's invention. For example, Applicant's use of a truncated cone geometry forces all fluid to flow toward the narrow end of the truncated cone. As described in Applicant's specification, "the shape of the truncated cone dictates that the part of elastic cylinder 14 lying above fluid groove 18... is less tightly stretched than the portion lying below fluid groove 18. Thus, the fluid travels upward, deflecting that portion of elastic cylinder

14 away from truncated cone 12." (Applicant's specification, page 5, lines 17-21). Also, the simplicity of Applicant's device allows it to be manufactured and assembled more easily and at lower cost than the prior art nozzles.

Rejections under 35 U.S.C. 103(a)

The Examiner rejected Claims 1, 2, 4, 5, 7, 8, and 11 under 35 U.S.C. § 103(a) as being unpatentable over Gerber (U.S. 5,836,484) in view of Gerber (US RE 34,243). Applicant has reviewed these patents and respectfully traverses this rejection.

The Examiner rejected Claims 1, 2, 4, 5, 7, 8 and 11 under 35 U.S.C. § 102(b) as being anticipated by Gerber (U.S. 5,836,484). Applicant has reviewed this patent and respectfully traverses this rejection.

A prior art reference does not create a case of prima facie obviousness if it fails to disclose a material element or limitation claimed in the present invention. *In re Evanega*, 829 F.2d 1110 (Fed. Cir. 1987).

The patent to Gerber does not teach or describe several of the significant features of Applicant's invention which are recited in Claim 1. First, the patent to Gerber does not teach the use of Applicant's "truncated cone." Gerber's "delivery block" (30) has substantially vertical sidewalls and then a region that tapers to a neck. The geometry of Gerber's delivery block is not that of a truncated cone and does not provide the advantages of Applicant's truncated cone geometry. For example, Applicant's use of a truncated cone geometry forces all fluid to flow toward the narrow end of the truncated cone. As described in Applicant's specification, "the shape of the truncated cone dictates that the part of elastic cylinder 14 lying above fluid groove 18... is less tightly stretched than the portion lying below fluid groove 18. Thus, the fluid travels upward, deflecting that portion of elastic cylinder 14 away from truncated cone 12." (Applicant's specification, page 5, lines 17-21) Gerber's delivery block does not achieve this goal of nonuniform deformation of the elastic cylinder. Instead of relying on nonuniform deformation to control fluid flow, Gerber employs protrusion (50) to prevent fluid from flowing the wrong direction.

Furthermore, even if the "sloping" portion of delivery block 30 may be considered a truncated cone, the fluid manifold (34) is not inside or within the sloping portion of delivery block. Accordingly, the limitation recited in part d of Applicant's claim 1 is not taught or disclosed by Gerber.

In addition, Gerber does not teach Applicant's "fluid groove." The Examiner referred to the sleeve valves (46 and 48) lying at the end of both branches Gerber's internal conduit. These structures are simply outlet ports of the internal conduit corresponding to Applicant's conduit element. The Examiner correctly pointed out that Gerber utilizes a retaining "groove" (52), but Gerber does not describe a second groove "between said retaining groove and said second end of said truncated cone" as recited in Claim 1.

None of the prior art references cited - or any other reference known to the Applicants - describes or suggests these features. In view of the amendments and these remarks, the Applicants believe that the claims are in condition for allowance. Accordingly, the Applicants respectfully request that the Examiner reconsider the rejections.

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